

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT SOUTH CAROLINA
COLUMBIA DIVISION**

DISABILITY RIGHTS SOUTH
CAROLINA, ABLE SOUTH
CAROLINA, AMANDA McDOUGALD
SCOTT, individually and on behalf of
P.S., a minor; MICHELLE FINNEY,
individually and on behalf of M.F., a
minor; LYUDMYLA TSYKALOVA,
individually and on behalf of M.A., a
minor; EMILY POETZ, individually and
on behalf of L.P., a minor; SAMANTHA
BOEVERS, individually and behalf of
P.B., a minor; TIMICIA GRANT,
individually and on behalf of E.G. a
minor; CHRISTINE COPELAND
individually and on behalf of L.C. a
minor; HEATHER PRICE individually
and on behalf of H.P. a minor; and
CATHY LITTLETON individually and
on behalf of Q.L. a minor,

Plaintiffs,

v.

HENRY McMASTER, in his official
capacity as Governor of South Carolina;
ALAN WILSON, in his official capacity as
Attorney General of South Carolina;
MOLLY SPEARMAN, in her official
capacity as State Superintendent of
Education; GREENVILLE COUNTY
SCHOOL BOARD; HORRY COUNTY
SCHOOL BOARD; LEXINGTON
COUNTY SCHOOL BOARD ONE;
OCONEE COUNTY SCHOOL BOARD;
DORCHESTER COUNTY SCHOOL
BOARD TWO; CHARLESON COUNTY
SCHOOL BOARD; and PICKENS
COUNTY SCHOOL BOARD,

Defendants.

Case No. 3:21-cv-02728-MGL

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Plaintiffs Disability Rights South Carolina, Able South Carolina, Amanda McDougald Scott, individually and on behalf of P.S., a minor; Michelle Finney, individually and on behalf of M.F., a minor; Lyudmyla Tsykalova, individually and on behalf of M.A., a minor; Emily Poetz, individually and on behalf of L.P., a minor; Samantha Boevers, individually and behalf of P.B., a minor; Timicia Grant, individually and on behalf of E.G., a minor; Christine Copeland, individually and on behalf of L.C., a minor; Heather Price, individually and on behalf of H.P., a minor; and Cathy Littleton, individually and on behalf of Q.L., a minor (collectively, “Plaintiffs”) hereby respectfully move for a temporary restraining order and preliminary injunction.

Plaintiffs seek injunctive relief to stop enforcement of Budget Proviso 1.108 insofar as it bars schools and localities from requiring masking in the schools. By prohibiting that basic public health measure, Defendants are preventing public entities statewide from complying with the Americans with Disabilities Act (“ADA”) and the Rehabilitation Act. Defendants are illegally forcing South Carolina families who have children with disabilities to choose between their child’s education and their child’s health and safety, in violation of the ADA and Section 504 of the Rehabilitation Act. Further, the enforcement of Proviso 1.108 needlessly and unconscionably exposes South Carolina school children and their families to a heightened risk of infection, hospitalization, and death. It is against the calamitous consequences of Proviso 1.108’s enforcement that Plaintiffs seek emergency injunctive relief.

Plaintiffs can demonstrate that they are likely to succeed on the merits because Defendants are discriminating against students with disabilities in violation of federal law; Plaintiffs are likely to suffer irreparable harm in the absence of preliminary relief; the balance of equities tips in Plaintiffs’ favor; and an injunction is in the public interest.

This motion is supported by a memorandum of law which will be filed contemporaneously.

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[*Motion to proceed *pro hac vice* forthcoming](#)

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